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## *Chronicle of Research in Legal and Constitutional History in France in 2016*

**Keywords:** scholarly events, France, state of emergency, conferences, publications, academic degrees

**Słowa kluczowe:** wydarzenia naukowe, Francja, stan wyjątkowy, konferencje, publikacje, stopnie naukowe

Over the course of 2016 there were a number of significant developments in the area of legal and constitutional history in France and a large number of academic works were produced. Only the most relevant developments have been considered below. Publication dates have been omitted since this chronicle is by definition restricted to events having taken place in 2016.

### Focus on the state of emergency

Immediately following the terrorist attacks of November 2015 a state of emergency was declared in France, and it will remain in force at least until July 15<sup>th</sup>, 2017, after the French presidential and legislative elections. Constitutional and administrative authors have been especially interested in this subject and have provided long-term analysis of the state of emergency. In addition to numerous talks and academic papers, two conferences specially dedicated to this topic were held in Paris in 2016: on June 13<sup>th</sup> the National Institute of Higher Studies of Security and Justice (INHESJ) and the Jean Monnet faculty of law of the Paris-Sud University organised debates on the role of judges, and on the efficiency of measures taken under the state of emergency (conference: state of emergency or emergency of law – *L'état d'urgence ou l'urgence du droit*). On November 24<sup>th</sup> and 25<sup>th</sup>, the centre of theory and analysis of law (CTAD) of the Paris-Ouest University – Nanterre, directed by Prof. Jean-Louis Halpérin, proposed a theoretical approach for the study of the state of emergency (conference: the state of emergency, from excep-

tion to acquiescence – *L'état d'urgence : de l'exception à la banalisation*). At least two monographs were published on this subject. Prof. O. Beaud (Panthéon-Assas University – Paris II) and Prof. C. Guérin-Bargues (Paris-Ouest University – Nanterre) edited a constitutional, historical, and critical study which set out the legal origins of the concept of the state of emergency and its evolution up to the present day (*L'état d'urgence*, LGDJ). A special chapter of the study deals with the failure of the constitutional initiative, in March of 2016, to amend the French Constitution in order to enshrine the state of emergency therein. Prof. P. Cassia published an essay arguing against the state of emergency and the subsequent extensions of the same (*Contre l'état d'urgence*, Dalloz). According to him, the state of emergency is an inappropriate response to terrorism and could be dangerous if it were to be employed by an authoritarian regime.

## Conferences

Two major events of legal history took place in Paris last summer. The 15<sup>th</sup> International Congress of Medieval Canon Law held on July 17<sup>th</sup>–23<sup>rd</sup> at the Panthéon-Assas University – Paris II under the auspices of the Stephan Kuttner Institute of Medieval Canon Law and the *Iuris Canonici Medii Aevi Consociatio* (ICMAC) in partnership with the *Institut d'histoire du droit* (Panthéon-Assas University – Paris II) in association with the *Centre National de la Recherche Scientifique*, with the support of the *Centre Droit et Sociétés Religieuses* of the Paris-Sud University, the *École nationale des chartes*, the *École des Hautes Études en Sciences Sociales* and the *Centre Michel de L'Hospital* of the University of Auvergne. 172 researchers from 25 different countries presented papers covering all fields of the history of canon law. Prof. A. Lefebvre-Teillard opened the inaugural session with an address on the topic of the diffusion of the writings of Gilbertus Anglicus in the north of France.

The 70<sup>th</sup> session of the *Société Internationale Fernand de Visscher pour l'Histoire des Droits de l'Antiquité* took place in Paris on September 13<sup>th</sup>–17<sup>th</sup> with a session on the topic *Ius et Periculum – Law as confronted to risk in the Antiquity period*. 160 researchers from 31 different countries discussed the main aspects of the subject. The session began with the award ceremony of the 10<sup>th</sup> *Premio Romanistico Internazionale Gérard Boulvert* by the Inter-University Consortium for the Study of Legal Civilisation and for the History of its ordination. The prize was awarded to Dr. Andreas Groten (Cologne University) for his work *Corpus und Universitas, Römisches Körperschafts – und Gesellschaftsrecht: zwischen griechischer Philosophie und römischer Politik* (Mohr Siebeck, 2015).

Many other conferences and seminars on constitutional or legal history were held in France in 2016. For example, since 2015, a cycle of four meetings has been established on “the history of a labour-free economy i.e. on finance, investment, and speculation from Antiquity to the present” (*Histoire de l'économie sans travail – Finances, investissements et spéculation de l'Antiquité à nos jours*). The Panthéon-Assas University – Paris II hosted the first meeting of the cycle (December 2<sup>nd</sup>, 2015) on the intellectual sources of this history. The faculty of law of Bordeaux University and Lille 2 University hosted

the second (April 1<sup>st</sup>) and third (November 18<sup>th</sup>) meetings on the players of the labour-free economy, and on conflict resolution. The last meeting will take place in Florence at Villa Finaly (June 8<sup>th</sup>–10<sup>th</sup>, 2017). The *Institut Michel Villey* (Panthéon-Assas University) and PhiCo/NoSoPhi (Panthéon-Sorbonne University) organised two days of debates on subjective rights and citizenship (*Droits subjectifs et citoyenneté : Peut-on penser la citoyenneté à partir des droits subjectifs?*, Paris, March 11<sup>th</sup>–12<sup>th</sup>). Based on a historical and philosophical perspective of these two notions, the different speakers of the conference considered the status of being a citizen and its connections with democracy.

## Publications

Each year in France, many works are published in the fields of legal or constitutional history. A small sample of these monographs is presented here (listed alphabetically by author's name):

– Prof. D. Amson †, *French Constitutional History, vol. 3, From the Death of Louis XVIII to the installation of the new regime 1824–1830 (Histoire Constitutionnelle Française, tome 3, De la Mort de Louis XVIII à l'Installation du Nouveau Régime 1824–1830)*, LGDJ. Prof. Amson died before he was able to complete his monumental project – the compilation of a French constitutional history beginning at the Revolution and continuing until the end of the 19<sup>th</sup> century. This book is the last to be published. It is a very detailed monograph on the reign of Charles X during the French Restoration;

– Collective, *Public Law and the First World War (Le Droit Public et la Première Guerre Mondiale)*, Jus Politicum, Dalloz, vol. VIII. The review *Jus Politicum*, published annually by the Institut Michel Villey (Panthéon-Assas University), dedicates a special volume to the effects that the First World War had on the science of law.

– Dr. J. Jeanney, *Constitutional Lacunae (Les Lacunes Constitutionnelles)*, Dalloz, Nouvelle Bibliothèque de Thèses. Through his doctoral thesis, the author proposes a conceptualisation of the lacunae of normative systems in the field of constitutional law;

– Prof. N. Laurent-Bonne, Prof. X. Prévost, *To Conceptualize Medieval and Modern Legal System. Diverse Perspective on the methods of lawyers (Penser l'Ordre Juridique Médiéval et Moderne. Regards croisés sur les méthodes des jurists)*, LGDJ, coll. Contextes. Proceedings from conference held at the University of Auvergne (January 21<sup>st</sup>–22<sup>nd</sup>, 2016). The aim of this book is to question the epistemology of legal history. It gathers contributions from the speakers at the conference including Prof. M. Troper, Prof. B. Frydman, Prof. J.-L. Halpérin, and Prof. J. Hilaire;

– Dr. N. Sild, *Gallicanism and the Building of the State 1563–1905 (Le Gallicanisme et la Construction de l'État 1563–1905)*, Institut Universitaire Varenne, coll. Thèses. Gallicanism is a doctrine by which canonical rules promulgated by the Pope or a Council should not be self-executing but must first be approved by the Sovereign to become the Law of the State. The authors' objective is to prove that Gallicanism has provided momentum for the intellectual building of the modern state.

## Academic degrees

In 2016, six researchers were appointed full professor at the end of the competitive examination of aggregation of history of law (by order of merit):

– Guillaume Richard, Professor at the Paris-Descartes University – Paris V, author of a doctoral thesis entitled “The Teaching of Public Law in Paris under the Third Republic”;

– Olivier Serra, Professor at the Rennes I University, author of a doctoral thesis entitled “The Legislator and the Wine Market under the Third Republic”;

– Sébastien Le Gal, Professor at the University of Grenoble-Alpes, author of a doctoral thesis entitled “State of Siege in France (Ancien Régime – Révolution)”;

– Vincent Martin, Professor at the University of Rouen, author of a doctoral thesis entitled “King’s Peace. Public Peace, Ideology, Legislation, and Judiciary Practice from Capetian royalty to Charles Le Bel (1180–1328)”;

– François Quastana, Professor at Lille 2 University, author of a doctoral thesis entitled “Mirabeau’s Political Thought (1771–1789): Classical Republicanism and Regeneration of Monarchy”

– Julien Lapointe, Professor at the University of Antilles – Martinique, author of a doctoral thesis entitled “*Sous le ciel des Estatz*. The États généraux of Lorraine under the personal reign of Charles III (1559–1608)”.